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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,116	04/16/2004	Yoji Seto	023971-0403	7718
22428 7590 01/28/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
JEN, MINGJEN				
ART UNIT		PAPER NUMBER		
3664				
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01/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,116

Applicant(s)

SETO, YOJI

Examiner

IAN JEN

Art Unit

3664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/03/2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-9, 19 and 20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3, 7-9, 19 and 20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04/16/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date 11/16/2006/04/16/2004
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is response to the amendment filed on September 3rd, 2008
2. Claims, 1, 3, 5, 6 have been amended.
3. Claims 2, 4, 7-20 have been cancelled.
4. Claims 21- 26 have been added.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for claim 2, the phrase, “a vehicular occupant of the variation in the detection range of the vehicular forward substance detecting section” does not distinctly and particularly point the claimed subject matter as in a distinct and clear way. Appropriate correction is required.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 3, 7, 9, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Arita et al (JP 11142520 in view of English translation).

As for claim 1, 19, 20, Arita et al shows a vehicular forward substance detecting section and method that detects a forward substance located in a forward direction of the vehicle (Para 0009, 0010,0028,0035,0039,0045,0065-0067; Fig 2); a vehicular travel controlling section that performs a vehicular travel control on the basis of a relative positional relationship between the forward substance detected by the vehicular forward substance detecting section and the vehicle (Para 0009, 0010,0028,0035,0039,0045,0065-0067; Fig 2); an impulse detecting section that detects such an impulse that a detection range of the vehicular forward substance detecting section is varied has been applied to the vehicular forward substance detecting section (Para 0009, 0010,0028,0035,0039,0045,0065-0067; Fig 2); a traveling control inhibiting section that inhibits the vehicular travel control by the vehicular travel controlling section when the impulse detecting section detects that the impulse has been applied to the vehicular forward substance detecting section (Para 0009, 0010,0028,0035,0039,0045,0065-0067; Fig 2).

As for claim 2, Arita et al shows a detection range variation informing section that informs a vehicular occupant of the variation in the detection range of the vehicular forward substance detecting section when the impulse detecting section detects that the impulse has occurred (Para 0017, Para 0021, Par 0026, Para 0059-0064).

As for claim 3, 7, Arita et al shows a variation rate estimating section that estimates a variation rate of the detection range of the vehicular forward substance detecting section when the impulse detecting section detects that the impulse has been applied to the vehicular forward substance detecting section (Para 0024, 0025; Para 0032—0039; Para 0056-0068); a vehicular

traveling control modifying section that modifies a control method of the vehicular travel controlling section in accordance with the variation rate estimated by the variation rate estimating section (Par 0056 – 0068; Para 0071 - 0075); the impulse detecting section detects the impulse on the basis of the relative positional relationship (Para 0024, 0025; Para 0032—0039; Para 0056-0068).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al (JP 11142520 in view of English translation) in view of Maruko et al (US Pat Pub No 2002/0091479) and Kodaka et al (US Pat Pub No 2001/0016798).

As for claim 8, Arita et al is silent regarding recite claim limitation.

Maruko et al shows show a collision avoidance determining section that determines whether it is possible to avoid a collision of the vehicle against the forward substance by a vehicular brake system and braking characteristic of vehicle, a steering characteristic (Para 0031- 0038). Kodaka et al shows wheather it is possible to avoid the collision of the vehicle against the forward substance by a driver's vehicular steering on the basis of the relative positional relationship to the forward substance detected by the vehicular forward substance

detecting section (Para 0044 - 0050) and wherein both Maruko et al show both the possible and impossible avoidance determination in Step 109; Kodaka shows both the possible and impossible avoidance determination in Fig 6, Fig 12 and 19.

It would have been obvious for one of ordinary skill in the art, to provide the possible avoidance means, as taught by Markuo and Kodaka, to the detecting means of Arita et al, in order to provide collision avoidance as taught among Arita, Markuo and Kodaka.

As for claim 9, Arita et al shows the vehicular traveling control modifying section performs the a vehicular traveling control only for a smaller relative positional relationship to the forward substance as the variation rate of the detection range estimated by the variation rate estimating section becomes large or from large to small (Para 0012-0017; Para 0031- 0039).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

Yano et al (US Pat Pub 20070129891)

Knoop et al (US Pat No 7015805)

Condo et al (US Pat Pub 20070032914)

Isaji et al (US Pat Pub 20050128063)

Seto et al (US pat Pub 20040145238/20020152015)

Seto et al (US Pat Pub 20030067219/20030028311/7099764)

Yamamura et al (US Pat pub 20020169538)

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Akabori et al (US Pat Pub 2002011173/20020099491)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to IAN JEN whose telephone number is (571)270-3274. The examiner can normally be reached on Monday - Friday 9:00-6:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ian Jen/
Examiner, Art Unit 3664

/Dalena Tran/
Primary Examiner, Art Unit 3664